

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF TEXAS

ABILENE DIVISION

TSEPHANYAH Y. HAWKINS,

et al.,

Plaintiffs,

v.

THE HONORABLE JOHN W. WEEKS,

et al.,

Defendants.

§

§

§

§

§

§

§

CLERK, U.S. DISTRICT COURT

By

Deputy

Civil Action No.,

1:05-CV-184-C

DEC 23 2005

**PLAINTIFFS' MOTION FOR LEAVE TO SURREPLY TO OR TO STRIKE THE  
REPLY BY DEFENDANTS MARILYN GARDNER, JOHN CHISTOLINI, AND  
CHISTOLINI AND DESIMONE, INC.**

Comes now Plaintiffs moving that Defendants Marilyn Gardner, John Chistolini, and Chistolini and DeSimone, P.C.'s ("Defendants") Response to Brief in Support of Motion to Dismiss for Lack of Personal Jurisdiction Over Defendants Marilyn Gardner, John Chistolini, and Chistolini and DeSimone, P.C. ("Reply") be stricken. Or, if it is not stricken, Plaintiffs respectfully request leave to surreply in opposition to that reply pursuant to the requirements of the Honorable Sam R. Cummings.

This motion is filed concurrently with a brief that supports it and a proposed order.

This motion should be considered opposed because Plaintiffs' were unable to confer with Defendants as demonstrated by the attached Certificate of Conference.

Because Defendants have neither requested nor received leave of court to file a reply pursuant to the requirements of the Honorable Sam R. Cummings, Defendants' Reply should be stricken. Moreover, Defendants' Reply remarks about "a fight in which defendants did not have

a dog present or participating”; Plaintiffs hope it was misfiled in this case<sup>1</sup>.

In the less preferred alternative, Plaintiffs request leave to file a surreply in opposition to Defendants’ Reply in order to address issues raised by Defendants’ Reply.

**PRAYER**

Accordingly, Plaintiffs request that the Court strike Defendants’ Reply, or grant Plaintiffs leave to surreply, and for any further relief to which they are entitled.

Respectfully Submitted,



Tsephanyah Y. Hawkins, Pro Se  
3706 Private Road 2547  
Clyde, Texas 79510  
(Voice) 325-893-4790  
(Fax) 325-893-1805




Yahghanan Y. Hawkins, Pro Se  
3471 Private Road 2541  
Clyde, Texas 79510  
(Voice) 325-893-5961

---

<sup>1</sup> Rather than now focus upon the ugly implications of the remark, Plaintiffs hope that the reply belongs to an animal attack or abuse case and it was mistakenly filed in this case.

**CERTIFICATE OF CONFERENCE**

I, Tsephanyah Y. Hawkins, do hereby certify that I attempted to confer with Attorney Kerry Di Gioia on December 23, 2005 regarding this matter by teleconference and via facsimile transmission. I was unable to reach her.

  
TSEPHANYAH Y. HAWKINS  
3706 Private Road 2547  
Clyde, Texas 79510

**CERTIFICATE OF SERVICE**

This is to certify that on this 23<sup>th</sup> day of Dec, 2005, a true and correct copy of the foregoing was served on the following as stated below:

**BY CERTIFIED US MAIL FIRST CLASS RETURN RECEIPT REQUESTED:**

**Mark J Zimmermann**

**Tom C Clark**

**Jill A Malouf**

Dealey Zimmermann Clark &  
Malouf

Turtle Creek Tower

3131 Turtle Creek Blvd

Suite 1201

Dallas, TX 75219-5415

**Stephen H Suttle**

**Kerry DiGioia**

McMahon Law Firm

PO Box 3679

400 Pine St

Suite 800

Abilene, TX 79604-3679

**Hao Le**

Office of the Texas Attorney

General

General Litigation Div

PO Box 12548

Austin, TX 78711-2548

**Carter Law Offices**

**Tiffani N. Helms**

618 Hickory Street

Abilene, Texas 79601

**Roy B. Longacre**

P.O. Box 360

Abilene, TX 79604-0360

**Gary M. Brown**

3041 South 7th

Abilene, TX 79605

**IN PERSON DELIVERY**

**Yahchanan Hawkins**

3471 Private Road 2541

Clyde, Texas 79510

**CERTIFIED BY:**



Tsephanyah Hawkins, Pro Se

3706 Private Road 2547

Clyde, Texas 79510

325-893-4790